

series in another line (with entry (a)(2) completed as '300' or '3xx'), even if the other required information is common to all products in the '100' and '300' series.

[75 FR 36498, June 25, 2010]

PART 743—SPECIAL REPORTING

Sec.

743.1 Wassenaar Arrangement.

743.2 High performance computers: Post shipment verification reporting.

743.3 Thermal imaging camera reporting.

SUPPLEMENT NO. 1 TO PART 743—WASSENAAAR ARRANGEMENT PARTICIPATING STATES

AUTHORITY: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 12, 2010, 75 FR 50681 (August 16, 2010).

§ 743.1 Wassenaar Arrangement.

(a) *Scope.* This section outlines special reporting requirements for exports of certain commodities, software and technology controlled under the Wassenaar Arrangement. Such reports must be submitted to BIS semiannually in accordance with the provisions of paragraph (f) of this section, and records of all exports subject to the reporting requirements of this section must be kept in accordance with part 762 of the EAR. This section does not require reports for reexports.

NOTE TO PARAGRAPH (a) OF THIS SECTION: For purposes of part 743, the term "you" has the same meaning as the term "exporter", as defined in part 772 of the EAR.

(b) *Requirements.* You must submit two (2) copies of each report required under the provisions of this section and maintain accurate supporting records (see § 762.2(b) of the EAR) for all exports of items specified in paragraph (c) of this section for the following:

(1) Exports authorized under License Exceptions GBS, CIV, TSR, LVS, APP, and the cooperating government portions (§§ 740.11(b)(2)(iii) and 740.11(b)(2)(iv) of the EAR) of GOV (see part 740 of the EAR). Note that exports of technology and source code under License Exception TSR to foreign nationals located in the U.S. should not be reported; and

(2) Exports authorized under the Special Comprehensive License procedure (see part 752 of the EAR).

(3) Exports authorized under the Validated End-User authorization (see § 748.15 of the EAR).

(c) *Items for which reports are required.*

(1) You must submit reports to BIS under the provisions of this section only for exports of items controlled under the following ECCNs:

(i) *Category 1:* 1A002; 1C007.c and .d; 1C010.c and .d; 1D002 for "development" of 1A002, 1C007.c and .d, and 1C010.c and .d; 1E001 for "development" and "production" of 1A002, 1C007.c and .d, and 1C010.c and .d; 1E002.e and .f;

(ii) *Category 2:* 2D001 (certain items only; see Note to this paragraph), 2E001 (certain items only; see Note to this paragraph), and 2E002 (certain items only; see Note to this paragraph);

NOTE TO PARAGRAPH (c)(1)(ii): *Reports for 2D001*, ARE FOR "SOFTWARE", OTHER THAN THAT CONTROLLED BY 2D002, SPECIALLY DESIGNED FOR THE "DEVELOPMENT" OR "PRODUCTION" OF THE EQUIPMENT IN 2B001.A OR .B (CHANGING 6µm TO 5.1µm IN 2B001.A.1 AND 2B001.B.1.A; AND ADDING "A POSITIONING ACCURACY WITH "ALL COMPENSATIONS AVAILABLE" EQUAL TO OR LESS (BETTER) THAN 5.1µm ALONG ANY LINEAR AXIS" TO THE EXISTING TEXT FOR 2B001.B.2) OF THE COMMERCE CONTROL LIST (CCL). *Reports for 2E001*, are for "technology" according to the General Technology Note for "development" of "software" as described in this paragraph for 2D001, or for the equipment in 2B001.a or .b (changing 6µm to 5.1µm in 2B001.a.1 and 2B001.b.1.a; and adding "a positioning accuracy with "all compensations available" equal to or less (better) than 5.1µm along any linear axis" to the existing text for 2B001.b.2) of the CCL.

Reports for 2E002, are for "technology" according to the General Technology Note for "production" of the equipment in 2B001.a or .b (changing 6µm to 5.1µm in 2B001.a.1 and 2B001.b.1.a; and adding "a positioning accuracy with "all compensations available" equal to or less (better) than 5.1µm along any linear axis" to the existing text for 2B001.b.2) of the CCL.

(iii) *Category 3:* 3A002.g.1, 3B001.a.2, 3D001 for "development" or "production" of 3A002.g.1 or 3B001.a.2, and 3E001 for "development" or "production" of 3A002.g.1 or 3B001.a.2;

(iv) *Category 4:* 4A001.a.2; 4D001 (see paragraph (c)(2) of this section); and 4E001 (see paragraph (c)(2) of this section);

(v) *Category 5:* 5A001.b.3; 5B001.a (items specially designed for 5A001.b.3 and b.5); 5D001.a (specially designed for the "development" or "production" of

equipment, function, or features in 5A001.b.3) and 5D001.b (specially designed or modified to support “technology” under 5E001.a as described in this paragraph); and 5E001.a (for the “development” or “production” of equipment, functions or features specified by 5A001.b.3 or “software” in 5D001.a or 5D001.b as described in this paragraph);

(vi) Category 6: 6A001.a.1.b (changing 10 kHz to 5 kHz and adding the text “or a sound pressure level exceeding 224 dB (reference 1 μ Pa at 1 m) for equipment with an operating frequency in the band from 5kHz to 10 kHz inclusive” to the existing text in 6A001.a.1.b.1), and 6A001.a.2.d; 6A002.a.1.a, 6A002.a.1.b, 6A002.a.2.a (changing 350 uA/Im to 700 uA/Im in 6A002.a.2.a.3.a), 6A002.a.3, 6A002.b, 6A002.c (incorporating 6A002.a.2.a or 6A002.a.3 having characteristics described in this paragraph), 6A002.e; 6A003.b.3 (incorporating 6A002.a.2.a having characteristics described in this paragraph, except imaging cameras specially designed or modified for underwater use), 6A003.b.4 (incorporating 6A002.a.3 having characteristics specified by this paragraph); 6A004.c and d; 6A006.a.1, 6A006.a.2 (having a “noise level” (sensitivity) lower (better) than 2pT rms per square root Hz), 6A006.c.1, 6A006.d (certain items only; see Note to this paragraph); 6A008.d, .h, and .k; 6D001 (for 6A004.c and .d and 6A008.d, .h, and .k); 6D003.a; 6E001 (for equipment and software listed in this paragraph); and 6E002 (for equipment listed in this paragraph);

Notes to paragraph (c)(1)(vi):

NOTE 1: Reports for 6A002.a.3 exclude the following “focal plane arrays”:

- a. Platinum Silicide having less than 10,000 elements;
- b. Iridium Silicide;
- c. Indium Antimonide or Lead Selenide having less than 256 elements;
- d. Indium Arsenide;
- e. Lead Sulphide;
- f. Indium Gallium Arsenide;
- g. Mercury Cadmium Telluride, as follows:
 1. ‘Scanning Arrays’ having any of the following:
 - a. 30 elements or less; or
 - b. Incorporating time delay-and-integration within the element and having 2 elements or less;
 2. ‘Staring Arrays’ less than 256 elements;

Technical Notes:

‘Scanning Arrays’ are defined as “focal plane arrays” designed for use with a scan-

ning optical system that images a scene in a sequential manner to produce an image.

‘Staring Arrays’ are defined as “focal plane arrays” unfortunately designed for use with a non-scanning optical system that images a scene.

h. Gallium Arsenide or Gallium Aluminum Arsenide quantum well having less than 256 elements; and

i. Microbolometer having less than 8,000 elements.

NOTE 2: Reports for 6A006.d, are for “compensation systems” for the following:

a. Magnetic sensors controlled in 6A006.a.2 using optically pumped or nuclear precession (proton/Overhauser) “technology” that will permit these sensors to realize a ‘sensitivity’ lower (better) than 2 pT rms per square root Hz.

b. Underwater electric field sensors controlled in 6A006.b.

c. Magnetic gradiometers controlled in 6A006.c that will permit these sensors to realize a ‘sensitivity’ lower (better) than 3 pT/m rms per square root Hz.

(vii) Category 7: 7D002; 7D003.c, d.1 to d.4, and d.7; 7E001; and 7E002;

(viii) Category 8: 8A001.c; 8A002.b (for 8A001.b, .c, .d), .h, .j, .o.3, and .p; 8D001 (for commodities listed in this paragraph); 8D002; 8E001 (for commodities listed in this paragraph); and 8E002.a; and

(ix) Category 9: 9B001.b, 9D001 (for 9B001.b and as described in this paragraph), 9D002 (for 9B001.b), 9D004.a, 9D004.c, 9E001 for technology controlled for NS reasons, 9E002, 9E003a.1 to a.5, a.8, and h.

(2) Reports for “software” controlled by 4D001(that is specially designed) and “technology” controlled by 4E001 (according to the General Technology Note in supplement No. 2 to part 774 of the EAR), are required for the “development” or “production” of computers controlled under 4A001.a.2, or for the “development” or “production” of “digital computers” having an “Adjusted Peak Performance” (“APP”) exceeding 0.5 Weighted TeraFLOPS (WT). For the calculation of “APP”, see the Technical Note at the end of Category 4 in the Commerce Control List (Supplement No. 1 to part 774 of the EAR).

(d) *Country Exceptions.* You must report each export subject to the provisions of this section, except for exports to Wassenaar member countries, as identified in supplement No. 1 to part 743.

(e) *Information that must be included in each report.* (1) Each report submitted to BIS for items other than those identified in paragraph (e)(2) of this section must include the following information for each export during the time periods specified in paragraph (f) of this section:

(i) Export Control Classification Number and paragraph reference as identified on the Commerce Control List;

(ii) Number of units in the shipment; and

NOTE TO PARAGRAPH (e)(1)(ii): For exports of technology for which reports are required under § 743.1(c) of this section, the number of units in the shipment should be reported as one (1) for the initial export of the technology to a single ultimate consignee. Additional exports of the technology must be reported only when the type or scope of technology changes or exports are made to other ultimate consignees. Additionally, do not report the release of technology or source code subject to the EAR to foreign nationals in the U.S.

(iii) Country of ultimate destination.

(2) [Reserved]

(f) *Frequency and timing of reports.* You must submit reports subject to the provisions of this section semiannually. The reports must be labeled with the exporting company's name and address at the top of each page and must include for each such export all the information specified in paragraph (e) of this section. The reports shall cover exports made during six month time periods spanning from January 1 through June 30 and July 1 through December 31.

(1) The first report must be submitted to and received by BIS no later than August 1, 1998 for the partial reporting period beginning January 15, 1998 and ending June 30, 1998. Thereafter, reports are due according to the provisions of paragraphs (f)(2) and (f)(3) of this section.

(2) Reports for the reporting period ending June 30 must be submitted to and received by BIS no later than August 1.

(3) Reports for the reporting period ending December 31 must be submitted to and received by BIS no later than February 1.

(g) *Mailing address and facsimile number:* (1) Two (2) copies of reports re-

quired under this section shall be delivered via courier to: Bureau of Industry and Security, U.S. Department of Commerce, Attn: "Wassenaar Reports", Room 2705, 14th Street and Pennsylvania Ave., NW., Washington, DC 20230. BIS will not accept reports sent C.O.D.

(2) Reports may also be sent by facsimile to: (202) 482-3345, Attn: "Wassenaar Reports".

(h) *Contacts.* General information concerning the Wassenaar Arrangement and reporting obligations thereof is available from the Office of Strategic Trade and Foreign Policy Controls, Tel. (202) 482-0092, Fax: (202) 482-4094.

[63 FR 2458, Jan. 15, 1998]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 743.1, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 743.2 High performance computers: Post shipment verification reporting.

(a) *Scope.* This section outlines special post-shipment reporting requirements for exports of certain computers to destinations in Computer Tier 3, see § 740.7(d) for a list of these destinations. Post-shipment reports must be submitted in accordance with the provisions of this section, and all relevant records of such exports must be kept in accordance with part 762 of the EAR.

(b) *Requirement.* Exporters must file post-shipment reports and keep records in accordance with recordkeeping requirements in part 762 of the EAR for high performance computer exports to destinations in Computer Tier 3, as well as, exports of commodities used to enhance computers previously exported or reexported to Computer Tier 3 destinations, where the "Adjusted Peak Performance" ("APP") is greater than 0.75 Weighted TeraFLOPS (WT).

(c) *Information that must be included in each post-shipment report.* No later than the last day of the month following the month in which the export takes place, the exporter must submit the following information to BIS at the address listed in paragraph (d) of this section:

(1) Exporter name, address, and telephone number;

(2) License number;